

PATENT  
P56341

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Kenneth Buck ALBRITTON

Serial No.: 09/995,615

Examiner: MAI, TRI M.

Filed: 29 November 2001

Art Unit: 3727

For: PORTABLE LOCKER BACKPACK (*as amended*)

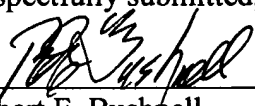
**TRANSMITTAL OF AFFIDAVIT OF COMMERCIAL SUCCESS**  
**AND EVIDENCE OF COMMERCIAL SUCCESS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This transmittal accompanies Affidavit of Commercial Success and evidence of commercial success for the above-referenced application.

Respectfully submitted,

  
\_\_\_\_\_  
Robert E. Bushnell,  
Attorney for the Applicant  
Registration No.: 27,774

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Folio: P56341  
Date: 23 December 2004  
I.D.: REB/sb



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AFFIDAVIT OF COMMERCIAL SUCCESS

Commissioner for Patents  
P.O.Box 1450  
Alexandria, VA 22313-1450

Sir:

I. This paper is submitted in accordance with MPEP 716.02(g) and as provided by 35 U.S.C. 25 and 18 U.S.C. 1001.

II. In addition to evidence of commercial success submitted on 21 November 2003, Applicant submits that the attached evidence provided by the Applicant, covered by claims 24-27, 32, 34, 35, and 37-55 of the above cited US Patent Application, claim 24 as an example reproduced below, comprises a nexus between the claimed invention and evidence of commercial success.

Claim 24. (Previously Presented) **A backpack, comprising of:**

**a back wall;**


**a hook connected to a top side of said back wall, said hook capable of hanging said back wall to an object, external to said backpack;**

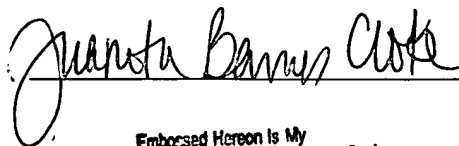
**a plurality of compartments on a front surface of said back wall, the plurality of compartments including a front portion comprised of netted material accommodating a circulation of air within said compartments, said compartments accommodating a plurality of objects;**

**a pair of shoulder straps disposed a predetermined distance from each other along the longitudinal side of the back surface of said back wall to accommodate a carrying of said backpack by the shoulders and the back of a user; and**

**wherein said backpack is secured by a fastening unit after said backpack is folded to a closed position.**

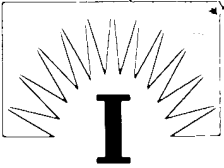
Kenneth B. Albritton  
Gearmax (TM)

By 

 (Seal)

Embossed Hereon is My  
Commonwealth of Virginia Notary Public Seal  
My Commission Expires February 28, 2006  
JUANITA BARNES-COOKE

R.E. Bushnell & Law Firm  
1522 "K" Street, N.W., Suite 300  
Washington, D.C. 20005-1202  
(202) 408-9040



IMPACT MEDIA

November 15, 2004

To whom it may concern:

As a buyer for American Family Fitness, a six location fitness facility in the central Virginia area, I purchased the Gearmax packs because of its unique features. The backpack's unique design that allows it to be unzipped to a hanging locker is especially attractive in a busy locker room. Rather than a member of the club competing for bench space or, having to dress from the pack while it sits on the floor, they can open the pack and hang it on the locker door. The member can then dress into the locker and out of the Gearmax pack with everything at easy reach.

We had to reorder half way through our planned three month promotion after we ran out quicker than we anticipated. This great demand for the product provided the best referral promotion we have had in our twenty-year history.

Best Regards,

Diana Hubbard  
Marketing Consultant

ROBIN WILSON

My COMMISSION EXPIRES ON 11.30.2005



5821 FAIRVIEW RD. SUITE 409, CHARLOTTE, NC  
PH: 704.293.1602 FAX: 704.377.1992  
CORPORATE OFFICE

November 23, 2004

To Whom It May Concern:

The Gearmax Pack was selected as the only bag that the Butch Harmon Golf Fitness program will offer for sale to fitness clubs, country clubs and personal training studios. It was selected over other bags on the market because of its unique features. The bag design allows access to loaded contents without having to empty the bag and can be hung by the attached hook placing it up off the floor in clear view.

The Gearmax Pack has received positive responses at trade shows from the vast majority of attendees. The bag will be carried in over one thousand fitness clubs in the near future.

Best Regards,

A handwritten signature in cursive script that reads "Jeff Appling".

Jeff Appling  
VP of Operations

A handwritten signature in cursive script that reads "Dorothy Public".

NOTREY PUBLIC

EXPIRES 08-31-08

Please understand that the attached list is NOT a complete list of all of your products which have been selected for our 2005 Annual Catalog, but is a current list of items being considered for which we do not already have cost guarantees in file for next year. Shortly after the product selection process for this catalog has been completed, we will be sending you a complete list of all of your products that will be included in this catalog. Currently, we expect that this will be in January 2005.

Please send your reply to Christina Jolie, and if you have any questions,



GEARMAX  
11227 MAYERS RUN DRIVE  
ASHLAND VA 23005

(341) DOVER SADDLERY

\*\*\* 2005 ANNUAL CATALOG \*\*\*

Dear Vendor

We are currently starting to select products for the 2005 Dover Saddlery Annual Catalog.

In previous years we have requested cost information AFTER completing the initial product selection process, however, this year we want to obtain pricing/cost commitments for 2005 BEFORE the product selection process begins.

Given the overall economic climate, pricing stability will be an important factor in deciding which products we include in our 2005 catalog, and therefore, we strongly encourage you to hold your 2004 prices through the end of our 2005 catalog. In this uncertain economic environment, Michele, Jonathan and I will be reviewing our product costs very carefully, as costs will play an even more critical role in product selection for this upcoming catalog. To a very large extent products are selected based on the discount that we receive for the FULL catalog year, and therefore, we would ask that you offer us the maximum discount opportunity for the time period of March 1st 2005 through February 28th 2006 for each of the products on the attached sheet(s).

At this stage we are requesting complete cost information on all of the attached items. If we are unable to obtain cost guarantees on these items promptly, this may result in the items not being included in the catalog. We will be sending additional requests for pricing/cost information on NEW items during the Fall, as we move through the product selection process. Please work directly with the appropriate Buyer on any NEW items that you would like us to consider for our 2005 catalog.

Please remember that the Dover Saddlery catalogs continue to offer you the opportunity to sell your products to the largest number of active riders. By combining sharper more competitive pricing with continued increases in circulation, you can expect that your business with Dover Saddlery will remain strong during the upcoming year.

Over the Last 12 months, our sales of your products have been \$7,674.70. This is an increase of 178% over the \$ 2,755.40 from the previous 12 months

Please find attached a list of your products that are being considered for the 2005 Dover Saddlery Annual Catalog. We would be most grateful if you could provide us with the following information for each item within the next 2 weeks.

- COST WITH ALL QUANTITY DISCOUNT INFORMATION
- UNIT OF MEASURE and/or CASE PACKS
- MANUFACTURER'S SUGGESTED RETAIL PRICES
- MINIMUM SELLING PRICE (only with WRITTEN Price Maintenance Policy)
- FREIGHT TERMS & CASH DISCOUNTS

As catalog shoppers are not willing to pay for price increases above the printed price in the catalog, we must request that you hold your prices to us for the whole catalog year.

We believe that 2005 will be somewhat stronger than 2004 and we will look forward to working closely with you to ensure that your items are in stock at all times so that we can maximize our business together. If you assist us with guaranteed pricing and volume discounts, we are sure that your business with Dover Saddlery will remain strong. If you can provide us with this information within the next 2 weeks it will be sincerely appreciated. Please be sure to initial each of the attached pages and sign the last page indicating you will hold prices throughout this catalog.

BEST AVAILABLE COPY

Please understand that the attached list is NOT a complete list of all of your products which have been selected for our 2005 Annual Catalog, but is a current list of items being considered for which we do not already have cost guarantees in file for next year. Shortly after the product selection process for this catalog has been completed, we will be sending you a complete list of all of your products that will be included in this catalog. Currently, we expect that this will be in January 2005.

Please send your reply to Christine Jolie, and if you have any questions, then please call Christine directly at 978-952-8062 X239. Thank you very much.

Yours sincerely,

Stephen L. Day  
President

DOVER SADDLERY  
525 Great Road, P.O. Box 1100, Littleton MA 01460  
Tel (978) 952-8062 Fax (978) 952-8066

**BEST AVAILABLE COPY**